

RIDER, BENNETT, EGAN & ARUNDEL

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March 6, 1989

WRITER'S DIRECT DIAL NUMBER

340-8929

MAR 9 1989 - 11 05 AM

INTERSTATE COMMERCE COMMISSION

By Federal Express

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(1926-1983)

OF COUNSEL
STUART W. RIDER, JR.
KENNETH R. JOHNSON

ALSO ADMITTED IN WISCONSIN

Secretary
Interstate Commerce Commission
Twelfth Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Attention: Mildred Lee
Room 2303

Re: First Bank National Association/
General Motors GP38-2 Locomotive
(Registered as Soo Line Railroad
Company No. 4503)

Dear Secretary:

This law firm has served as legal counsel to First Bank National Association in connection with the above-referenced sale of a locomotive. On behalf of the Bank we have enclosed one fully executed and one notarized copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

This document is a Security Agreement, a primary document, dated March 1, 1989.

The names and addresses of the parties to the document are as follows:

Secured Party: First Bank National Association
Attn: Charles M. Tilden
First Bank Place
Minneapolis, Minnesota 55480

Debtor: LaViers Enterprises
P. O. Box 332
State Route 1840
Irvine, Kentucky 40336

9-068A015

RIDER, BENNETT, EGAN & ARUNDEL

Secretary
Interstate Commerce Commission
March 6, 1989
Page Two

A description of the equipment covered by the document is as follows:

One used General Motors GP38-2 Locomotive (registered as Soo Line Railroad Company No. 4503)

A short summary of the document to appear in the index follows:

Security Agreement dated March 1, 1989 between First Bank National Association, First Bank Place, Minneapolis, Minnesota 55480 as Secured Party and LaViers Enterprises, P. O. Box 332, State Route 1840, Irvine, Kentucky 40336 as Debtor granting a security interest in the sum of \$213,000 in one used General Motors GP38-2 Locomotive (registered as Soo Line Railroad Company No. 4503).

A fee of \$13.00 is enclosed. Please return all documents not needed by the Commission for recordation to the undersigned at the address of our law firm indicated above.

Very truly yours,

RIDER, BENNETT, EGAN & ARUNDEL

By Anne B. Wight
Anne B. Wight

ABW:ls
Enclosures
cc: Mr. Charles M. Tilden

Interstate Commerce Commission
Washington, D.C. 20423

3/10/89

OFFICE OF THE SECRETARY

Anne B. Wight

Rider Bennett Egan & Arundel

2500 First Bank Place West

Minneapolis, Minnesota 55402

Dear

Ms. Wight:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/9/89 at 11:05am, and assigned recordation number(s).

16231

Sincerely yours,

Narta L. McLee

Secretary

Enclosure(s)

CERTIFICATE

I hereby certify that attached hereto is a true and accurate copy of the Security Agreement dated March 1, 1989 between First Bank National Association, as Secured Party, and LaViers Enterprises, as Debtor, granting a security interest in the sum of \$213,000 in one used General Motors GP38-2 Locomotive (registered as Soo Line Railroad Company No. 4503).

Anne B. Wight
Anne B. Wight 15231
REGISTRATION NO. FILED 1989

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

MAR 9 1989 11:05 AM
INTERSTATE COMMERCE COMMISSION

On this 6th day of March, 1989, before me, a Notary Public within and for said County and State, personally appeared Anne B. Wight, to me personally known, who, being by me duly sworn, did state and verify that she is the person named in the foregoing Certificate, that the facts and statements set forth in this Certificate are true and correct to the best of her knowledge and belief, and that she executed the same as her free act and deed.

Notary Public

DEBTOR FURTHER COVENANTS, WARRANTS AND AGREES THAT:

1. Debtor will pay the Secured Party all amounts payable on the note or notes mentioned above and all other notes held by Secured Party as and when the same shall be due and payable, whether at maturity, by acceleration or otherwise, and will perform all terms of said notes and this or any other security or loan agreement between Debtor and Secured Party, and will discharge all said liabilities.
2. Debtor will defend the Collateral against all persons claiming an interest adverse to that of the Secured Party and pay promptly when due all taxes and assessments upon the Collateral.
3. Debtor will keep the Collateral insured at all times against loss by fire and/or other hazards concerning which, in the judgment of the Secured Party, insurance protection is reasonably necessary, in a company or companies satisfactory to the Secured Party and in amounts sufficient to protect Secured Party against loss or damage to said Collateral and will pay the premiums therefor; that such policy or policies of insurance will be delivered to and held by the Secured Party, together with loss payable clauses in favor of the Secured Party as its interest may appear, in form satisfactory to the Secured Party; and Secured Party may act as attorney for Debtor in obtaining, adjusting, settling and cancelling such insurance and endorsing any drafts.
4. Debtor will keep the Collateral in good condition and repair, reasonable wear and tear excepted, and will permit Secured Party to enter upon any lands owned, leased or otherwise controlled by the Debtor at reasonable times for the purpose of examining the Collateral.
5. Debtor will pay as part of the debt hereby secured all amounts, including reasonable attorneys' fees and legal expenses, with interest thereon, paid by Secured Party (a) for taxes, levies, insurance, repairs to, or maintenance of the Collateral, and (b) in taking possession of, disposing of or preserving the Collateral after any default hereinafter described.
6. Debtor will immediately notify Secured Party of any change in Debtor's residence or place of business.
7. Debtor will not without the prior written consent of Secured Party (a) permit any liens or security interests (other than the security interest granted hereby) to attach to any of the Collateral; (b) permit any of the Collateral to be levied upon or attached by legal process; (c) sell or offer to sell or otherwise transfer the Collateral; (d) remove or permit the Collateral to be removed from the location or locations set forth above; or (e) do or permit anything to be done that may impair the value of any of the Collateral.
8. If any of the Collateral is or is to become a fixture, Debtor agrees to furnish Secured Party, at its request, with a statement or statements signed by all persons who have or claim an interest in the real estate concerned, which statements shall provide that the signer consents to the security interest created hereby and disclaims any interest in the Collateral as fixtures.
9. Debtor hereby authorizes Secured Party at Debtor's expense, to do all acts and things which Secured Party may deem necessary to perfect and continue perfected the security interest created by this security agreement and to protect the Collateral.
10. Any notice from Secured Party to Debtor, if mailed, shall be deemed given when mailed, postage prepaid, addressed to Debtor either at Debtor's address specified above, or such other address of Debtor as may from time to time be shown on Secured Party's records.
11. No financing statement covering the Collateral is on file in any public office, and at request of Secured Party, Debtor will join with Secured Party in executing one or more financing statements pursuant to the Uniform Commercial Code in form satisfactory to Secured Party and will pay the cost of filing the same in all public offices wherever filing is deemed necessary or desirable by Secured Party.
12. UNTIL DEFAULT, Debtor may retain possession of the Collateral and use it in any lawful manner not inconsistent with the agreements herein, or with the terms and conditions of any policy of insurance thereon.
13. DEFAULT — Debtor shall be in default under this agreement upon the happening of any of the following events: (a) nonpayment, when due, of any amount payable on any of the liabilities or failure to observe or perform any term hereof; (b) if any covenant, warranty or representation shall prove to be untrue in any material respect; (c) any Debtor becomes insolvent or unable to pay debts as they mature or makes an assignment for the benefit of creditors, or any proceeding is instituted by or against any Debtor alleging that such Debtor is insolvent or unable to pay debts as they mature; (d) entry of any judgment against any Debtor; (e) death of any Debtor who is a natural person, or of any partner of any Debtor which is a partnership; (f) dissolution, merger or consolidation, or transfer of a substantial part of the property of any Debtor which is a corporation or a partnership; (g) loss, theft, substantial damage, destruction or encumbrance of any of the Collateral; or (h) if Secured Party deems itself insecure for any reason.
- In the event of a default, Secured Party shall have the right, at its option and without demand or notice, to declare all or any part of the obligations immediately due and payable; and in addition, Secured Party may exercise, in addition to the rights and remedies granted hereby, all of the rights and remedies of a Secured Party under the Uniform Commercial Code or any other applicable law. Debtor agrees in the event of a default, to make the Collateral available to Secured Party at a place to be designated by Secured Party which is reasonably convenient. Debtor further agrees to pay all costs and expenses of Secured Party, including reasonable attorneys' fees, in the collection of any of the Obligations or the enforcement of any of Secured Party's rights. If any notice of sale, disposition or other intended action by Secured Party is required by law to be given to Debtor, such notice shall be deemed reasonably and properly given if mailed to Debtor at the address specified above, or at such other address of Debtor as may be shown on Secured Party's records, at least ten (10) days before such sale, disposition or other intended action. Waiver of any default hereunder by Secured Party shall not be waiver of any other default or of a same default on a later occasion. No delay or failure by Secured Party to exercise any right or remedy shall be a waiver of such right or remedy and no single or partial exercise by Secured Party of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy at any other time.
14. This agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of Minnesota. If any part of this contract shall be adjudged invalid, the remainder shall not thereby be invalidated.
15. If more than one party shall sign this Security Agreement, the term "Debtor" shall mean all such parties and each of them and all such parties shall be jointly and severally obligated hereunder. All rights of Secured Party shall inure to the benefit of its successors and assigns, and all obligations of Debtor shall bind Debtor's heirs, executors, administrators, successors and assigns.
16. Additional provisions of this agreement (if none insert "none"):

None.